



# Committee on Government Reform

*CONGRESSMAN TOM DAVIS, CHAIRMAN*

**April 2004**

## A Monthly Communications Memorandum on Government Reform Committee Agenda and Accomplishments

Washington, D.C. – Lead in drinking water. Mad Cow surveillance. Air Cargo Security. Online pharmacies. In March the House Government Reform Committee continued to focus its good-government, reform-minded agenda on those issues most important to the American taxpayer.

### **America's New Welcome Mat**

The Committee kicked off last month with a March 4<sup>th</sup> hearing on the US-VISIT Program. The hearing marked the latest step in the Committee's ongoing review of the newly implemented entry-exit tracking program and the changes made to policies for issuing visas as a result of the terrorist attacks of September 11, 2001. Through this hearing, the Committee learned about the current status of US-VISIT implementation, remaining challenges, and efforts underway to meet those challenges.

As part of the Committee's follow-up to this hearing, Chairman Davis sent a

letter to Department of Homeland Security (DHS) Secretary Tom Ridge noting his concerns about the plan to use Border Crossing Cards (BCC) to make it easier for some Mexican citizens to cross the border. Chairman Davis said he was specifically concerned about whether there are enough card readers to make the use of the cards effective and how quickly the BCC readers will be integrated into the existing database collection systems.

### **Public Confidence Down the Drain**

On March 5<sup>th</sup>, the Committee held an oversight hearing to review the condition of lead contamination in the D.C. region's water supply and to examine EPA's unique responsibility for drinking water safety in the Nation's Capital. The hearing provided a forum for the Committee to assess the actions of and coordination among EPA, the Washington Aqueduct, and the D.C. Water and Sewer Authority (WASA), and to review the effectiveness of applicable plans and

regulations in ensuring the safety of drinking water in the D.C. region.

During the hearing, EPA agreed with the Committee that it must reexamine whether its lead and copper rules adequately protect public health. On March 17<sup>th</sup>, Chairman Davis sent a letter to EPA asking the agency to use what it learned over several weeks to help guide its review of the regulations. The spikes in lead levels in the D.C. region – and the federal and local response to them – demonstrate clear shortcomings in the regulations. This letter raised specific questions as to what those shortcomings may be, and how EPA might be able to fix them. The Committee's end goal is to ensure that D.C. residents – and all Americans – can drink their home tap water free from the fear of harmful lead contamination.

## **Rebuilding Iraq: Getting Beyond Partisan Politics**

The Committee on March 11<sup>th</sup> held an oversight hearing on U.S. efforts to rebuild Iraq. This was the second hearing on our reconstruction efforts; this time the Committee concentrated on how contracting efforts are coordinated between the Department of Defense (DOD), U.S. AID, and the Coalition Provisional Authority.

The Committee was able to get beyond partisan sniping aimed at undermining the reconstruction process and instead focused on the important question of whether contract coordination is functioning appropriately. While contracting efforts in Iraq have not been perfect, latitude has to be given to contractors working in a war-zone environment. Procurement is complicated enough without adding rhetorical bullets and explosions to the equation.

## **Backdoor in the Sky?**

On March 16<sup>th</sup>, Chairman Davis and six other Members sent a letter to Comptroller General David Walker, asking the GAO to examine the status of air cargo security, in both passenger and all-cargo carriers. As a result of the 9/11 attacks and the vulnerabilities of commercial aviation, Congress appropriated \$14.5 billion to enhance aviation security overall. However, limited action has been taken to secure the transport of air cargo aboard commercial passenger and all-cargo aircraft. To help Congress evaluate this issue, Mr. Davis asked GAO to conduct a comprehensive review of air cargo security procedures. After beefing up airline security, the last thing the government should do is leave a possible backdoor in the sky for terrorists.

## **Prescription for Safety**

On March 18<sup>th</sup>, the Committee held a legislative hearing on the recently introduced Davis-Waxman Internet Pharmacy Consumer Protection Act. The Committee continues to examine the adequacy of consumer safeguards on Internet pharmacy sites and the effectiveness of traditional regulation of prescription drugs over the Internet. The legislation amends the Food, Drug, and Cosmetics Act with respect to the sale of prescription drugs over the Internet in three ways: 1) establishes requirements regarding the display of identifying information on Internet pharmacy sites; 2) prohibits Internet sales of prescription drugs without an appropriate medical relationship and; 3) provides additional authorities for states to take action against illegal Internet pharmacy sites. Chairman Davis and Ranking Member Waxman believe the Internet Pharmacy Consumer Protection Act is a necessary strengthening

of existing law that will help eliminate rogue Internet pharmacies that are operating illegally, in way that threatens public health.

## **You've Got Mail**

On March 23<sup>rd</sup>, the Committee held a joint hearing on postal reform with the Senate Committee on Government Affairs. This capped off the series of hearings held by the Senate Committee and House Government Reform Committee's Special Panel on Postal Reform and Oversight. Both Committees have heard the urgent need for postal reform from all stakeholders and will determine the best course of legislative action to reform the United States Postal Service (USPS) to meet the challenges of the 21<sup>st</sup> century. Members from both the House and the Senate, on both sides of the aisle, as well as the Administration, support the need for major postal reform.

## **Leveling the Playing Field**

On the same day, Chairman Davis and Congresswoman Eleanor Holmes Norton introduced H.R. 4012, which amends the District of Columbia College Access Act of 1999 to reauthorize the D.C. Tuition Assistance Program. A hearing was held two days later to consider the reauthorization legislation. The original legislation was signed into law in November 1999 and expires after FY2005. Given the tremendous success of the Program – freshman enrollment of D.C. high school graduates in college increased 28% from 1998 to 2002, compared to the national average of 5% – this legislation would permanently reauthorize the Program. The program has not only helped make higher education affordable for thousands of D.C. students – it's also

helped stabilize the population base in the Nation's Capital.

## **How to Spot a Mad Cow**

In response to a joint Davis-Waxman letter and growing criticism on the adequacy of its testing system, the U.S. Department of Agriculture (USDA) announced expanded testing for Bovine Spongiform Encephalopathy (BSE), commonly known as mad cow disease. USDA has repeatedly asserted that the cow in Washington State found to have BSE, was tested because it was a "downer" cow. The Committee learned that the co-manager of the slaughter plant and two other eyewitnesses, however, stated the cow stood and walked on the day of slaughter. While the focus of USDA's enhanced surveillance effort will be on the highest risk populations for the disease, USDA will increase the number of animals surveyed and will include a random sampling of apparently healthy animals.

## **Show Me the Money**

The Committee questioned Metro officials after an investigation by Metro's auditor general found that \$500,000 to \$1 million a year has been stolen from its parking facilities for several years and that managers ignored the problem. In response to the Committee's concerns, the Washington Metro Area Transit Authority will convert Metro's parking facilities to a cashless system through the use of "smart cards" by the end of June.

## **Helping D.C. Students and Civil Servants**

On April 1<sup>st</sup>, the Committee conducted a business meeting to mark up

H.R. 4012, The District of Columbia College Access Reauthorization Act of 2004, as well as H.R. 3737, The Pay Compression Relief Act of 2004, which seeks to address the problem of “pay compression” among administrative law judges (ALJs), members of contract appeals boards, and certain senior level employees outside the Senior Executive Service. In addition to several Commemorative and Postal Naming bills, the Committee marked up H.R. 3751, which requires OPM to study and evaluate options under which better dental, vision, and hearing benefits could be made available to federal employees – either as part of existing FEHBP plans, as a stand-alone option, or as a hybrid of the two.

## **Upcoming Agenda**

### **Need for Continuity Continues**

After the spring recess, the Committee will return to an April 22<sup>nd</sup> hearing on a recently released GAO report that was critical of Continuity of Operations (COOP) planning within the federal government. Continuity of operations - ensuring the government can perform essential functions in an emergency situation - has become a critical issue in light of the heightened terrorist threats. GAO found that 23 of the largest federal civilian agencies do not have adequate COOP plans as required by the Federal Emergency Management Agency (FEMA). The Committee is expected to hear from GAO on the details of its study and from DHS on the criticisms surrounding the lack of COOP planning within the federal government. Given the realities of the post 9/11 world, the government has to be better prepared.

## **Countering a Financial “Death Spiral”**

On the same day of the COOP hearing, the Committee plans to mark up legislation based on the recommendations put forth by the President's Commission on the Postal Service. These recommendations call for a restructuring of USPS operations to make it more efficient and help avoid frequent rate increases. While everyone agrees that major postal reform must be passed this year to avoid financial disaster for USPS, two issues that need to be resolved between Congress and the Administration involve releasing \$3 billion, currently held in escrow, to the Postal Service and shifting the payment of military retirement benefits for civil service workers back to the Department of Treasury.

### **Justice in the Nation’s Capital**

On April 23<sup>rd</sup>, the Committee expects to hold a hearing on District of Columbia’s judicial system. The hearing will focus on general court management issues, with a specific focus on the Family Court and Probate Court. Family Court issues may include: compliance with the requirements established in the LaShawn final court order (this is the long-standing federal court case that resulted in the creation of the Child and Family Services Agency receivership); procedures for making judicial appointments to the Family Court and the effect of the qualification requirements on appointment timeframes; and timeliness of the Family Court in meeting established timeframes for transferring and resolving cases.

Probate court issues may include: reported mistreatment, neglect, and other abuses by court-appointed conservators of

their clients; the equitability and objectiveness of the system for appointing conservators; the adequacy of protection of individuals' rights in the administration of conservatorships; and the adequacy of oversight of conservatorships.

## **Minutemen in their Hour of Need**

On April 29<sup>th</sup>, the Committee will reexamine issues facing the National Guard by focusing on its role in National Security, Homeland Defense and Homeland Security/Emergencies. The Committee's intent is to examine where the Guard is today, whether it is receiving the resources necessary to perform its mission, and where it needs to be in the future to meet the growing challenges of increased military deployment. The Committee expects to hear from several state Governors and Adjutant Generals as well as DOD officials.

The traditional concept of Guardsmen serving one weekend a month and two weeks a year to perform state disaster relief and train for federal service was shattered after September 11, 2001. With all that the government expects of the Guard, every effort should be made to ensure that Guard members have the tools necessary to do their jobs and come home safely.

## **SARA Goes to ASIA**

Acquisition reform may not be the sexiest issue, but it's key to the effective and efficient operation of the federal government. Later this month, Chairman Davis intends to propose new acquisition legislation, the Acquisition Systems Improvement Act (ASIA), that would include some of the provisions in the Services Acquisition Reform Act (SARA)

that were not incorporated into the FY2004 DOD Authorization Act. The Committee expects to include in the bill an Acquisition Corps program for the exchange of acquisition professionals between the federal government and participating private-sector concerns. ASIA would expand the Share in Savings program beyond Information Technology and eliminate many of the restrictions that were included in the Share in Savings provisions enacted under the E-Government Act of 2002.



**Subcommittee on  
Energy Policy,  
Natural Resources &  
Regulatory Affairs**

On March 24th, Chairmen Doug Ose and Christopher Shays held a joint hearing on the Ose-required report (due November 25, 2003) in the Homeland Security Act of 2002. On February 4, 2004, DHS submitted its report on consolidation and co-location of its regional and field offices to allow for cross-training of both Federal employees and first responders and one-stop shopping for first responders. During the hearing, DHS's Under Secretary for Border and Transportation Security Asa Hutchinson agreed to submit more responsive and thorough follow-up information on its forthcoming regional structure and plans for cross-training.

On March 30th, as a follow-up to a Subcommittee hearing and GAO investigation request, Chairman Ose testified before a Transportation and Infrastructure Subcommittee on inconsistent regulation of wetlands and other waters. To ensure fairness to our citizenry, Ose stressed the need for consistent Federal policy in either a Federal rulemaking or non-regulatory guidance document.

Around the April 15th tax reporting due date, the Ose Subcommittee will hold its annual paperwork reduction hearing. Witnesses will include the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs Administrator John Graham and Treasury's new Internal Revenue Service (IRS) Commissioner Mark Everson. IRS accounts for over 80 percent of all government-imposed paperwork. The President's January 2004 six-point economic plan includes "streamlining regulations and reporting requirements." Both witnesses are expected to provide details on paperwork reduction accomplishments since last April and the Administration's plans for the rest of the year.



#### **Subcommittee on Civil Service & Agency Organization**

Chairwoman Jo Ann Davis and the Subcommittee on Civil Service and Agency Organization approved two pieces of civil service legislation this month: H.R. 3751, which requires the Office of Personnel Management to analyze options for improving the dental, vision and hearing benefits available to federal employees and retirees; and H.R. 3737, which seeks to relieve "pay compression" among administrative law judges, boards of contracts appeals members and other high-ranking personnel. Both bills were reported out of the full Government Reform Committee on April 1.

The Subcommittee's hearing schedule included a March 24 examination of the major issues facing the Federal Employees Health Benefits Program and a March 30 exploration of the organization of federal food safety programs. Chairwoman Davis believes that food

inspection is an area where re-organization could improve government operations - and eliminate such mind-boggling situations such as the Food and Drug Administration being responsible for inspecting closed-face meat sandwiches and the U.S. Department of Agriculture being responsible for open-face meat sandwiches.

Also this month, the Subcommittee convened a forum March 18 on law enforcement retirement and pay issues. Representatives of the FBI Agents Association, the National Association of Assistant U.S. Attorneys, and the Fraternal Order of Police were given an opportunity to present their positions to House/Senate staff and a panel of OPM staff, led by Associate Director Ron Sanders, who are working on a report on these issues that is due to Congress at the end of April. The presentations by association representatives were followed by questions and an exchange of views by the OPM panel and Congressional staff, revealing a number of knotty issues that OPM will address in the report.



#### **Subcommittee on National Security, Emerging Threats & International Relations**

In March, the Subcommittee on National Security convened five oversight hearings. DOD and other agencies testified on export controls over cruise missile and unmanned aerial vehicle technologies. Multiple federal departments described efforts to coordinate U.S. policies on spectrum allocations at the World Radio Conference. In a joint hearing with the Regulatory Affairs Subcommittee, DHS and a panel of state and local officials examined initial efforts to build a regional structure to merge and streamline the Department's interface with



first responders. Finally, DOD, Reservists and National Guard veterans provided testimony about force health protection efforts, suicide prevention, medical screening and difficulties accessing post-deployment care.

In April, the Subcommittee plans to examine U.S. oversight of the U.N. Oil for Food program to determine how the sanctions regime was apparently corrupted by a lack of accountability and transparency. Continuing oversight begun last year on security of the nuclear weapons complex and civilian nuclear power facilities, the Subcommittee will examine progress implementing post 9/11 security standards at DOE facilities.



#### Subcommittee on Government Efficiency & Financial Management

On March 3<sup>rd</sup>, Chairman Todd Platts and the Subcommittee on Government Efficiency and Financial Management reviewed GAO's audit of the FY2003 consolidated financial statements of the U.S. Government in a hearing with U.S. Comptroller General David Walker, OMB Controller Linda Springer, and Treasury Assistant Fiscal Secretary Don Hammond. For the seventh year in a row, GAO was unable to provide assurance as to the reliability of the federal government's financial books, resulting in a disclaimer of opinion.

The Subcommittee heard from the Chief Financial Officer and Inspector General DHS on March 10<sup>th</sup> at a hearing to discuss the findings of their FY2003 financial audit, which revealed serious internal control weaknesses and problems with accounting systems. The hearing renewed interest in *The Department of Homeland Security Financial*

*Accountability Act*, (H.R. 2886) introduced by Chairman Platts and Chairman Davis. H.R. 2886, which passed the full Government Reform Committee, would bring DHS under the Chief Financial Officers Act – the cornerstone for federal financial management that applies to every other cabinet department.

On March 31<sup>st</sup>, the Subcommittee held a hearing on a GAO report that examined the effectiveness of the Government Performance and Results Act (GPRA), *Results-Oriented Government - GPRA Has Established a Solid Foundation for Achieving Greater Results* (GAO-04-38). To address some of the concerns raised in the report, Chairman Platts and Chairman Davis recently introduced the Program Assessment and Results Act, or PAR Act (H.R. 3826), which builds on GPRA by requiring the OMB to assess the performance of all Federal programs at least once every five years.

The Subcommittee has scheduled a review of the implementation of the Improper Payments Information Act in York, Pennsylvania on April 15<sup>th</sup> and a hearing to look at resource allocation and strategic planning at the Securities and Exchange Commission in New York City on April 20<sup>th</sup>, featuring testimony from New York Attorney General Eliot Spitzer.



#### Subcommittee on Technology, Information Policy, Intergovernmental Relations & the Census

During the month of March, the Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census conducted five oversight hearings. The focus ranged from a review of the federal government's information technology investment management, oversight and strategic planning, to a

review of current and future e-government initiatives, to an examination of progress made in the arena of cyber security, both in the public sector and related to the nation's critical infrastructure.

During April, the Subcommittee will continue its work on information security issues, including follow up activity with the Corporate Information Security Working Group, as well as additional meetings with federal agencies regarding their plans and progress with complying with the requirements of the Federal Information Security Management Act (FISMA). The Subcommittee will also continue its aggressive oversight hearing schedule and planning for a number of hearings in the coming months of May and June.



#### **Subcommittee on Human Rights and Wellness**

The Subcommittee on Human Rights and Wellness held an oversight hearing to examine the status of the federal government's research analysis and implementation of the *Dietary Supplement Health Education Act* (DSHEA) of 1994. Chairman Dan Burton and members of the Subcommittee heard a wide range of testimony from dietary supplement industry leaders, medical doctors, and policy researchers regarding the impact of DSHEA in the United States over the past decade.

Millions of Americans purchase dietary supplements each year in order to maintain and improve their personal health. The enactment of DSHEA was a significant step in addressing the safety concerns of consumers and manufacturers alike, and its provisions help ensure that

appropriately labeled products remain readily available to those who utilize them.

DSHEA was the first piece of legislation that fully defined dietary supplements and dietary ingredients. Specifically, DSHEA set forth guidelines as to how the U.S. Food and Drug Administration (FDA) ought to regulate the dietary supplements industry. Under this law, manufacturers are required to follow specific procedures in order for their products to be classified as a legitimate dietary supplement. In addition, DSHEA established a new framework for assuring product safety.

The Subcommittee has tentatively scheduled a hearing for mid – April as part of its ongoing investigation of human rights violations around the world.



#### **Subcommittee on Criminal Justice, Drug Policy and Human Resources**

On April 1<sup>st</sup>, the Subcommittee focused its concern that the British-led effort on eradication of opium poppy is stalled just as the opium harvesting season in the south of Afghanistan is set to begin. The Subcommittee has received disturbing reports that while the British were supposed to eradicate a targeted 12,000 acres of opium poppy, they were barely off the ground in Helmand, and have done almost nothing in Nangarhar. According to Subcommittee sources, there has been dithering on agreement on how to measure what is actually being eradicated, which hampers accountability among the governments pledging counternarcotics resources.

On the same day, the Subcommittee held another hearing on a highly controversial topic: the use of marijuana for so-called “medical”



purposes. In recent years, a large and well-funded pro-drug movement has succeeded in convincing many Americans that marijuana is a true “medicine,” to be used in treating a wide variety of illnesses. Unable to change the federal laws, however, these pro-drug activists turned to the state referendum process, and succeeded in passing a number of “medical marijuana” initiatives. This has set up a direct conflict between federal and state law, and put into sharp focus the competing scientific claims about the value of marijuana (and its components) as “medicine.”

FDA and NIDA testified about the health dangers of marijuana and outlined that the illegal drug has not been approved for use as "medicine" for any health condition. FDA discussed how important it is to preserve the federal procedures for testing and approving potentially dangerous drugs – and why states should not bypass those procedures. The hearing also highlighted how many doctors in these states are irresponsibly prescribing marijuana to people for non-serious conditions – including prescriptions to teenagers for “treatment” of ADD. One witness, Dr. Claudia Jensen of Ventura, California, admitted recommending pot to teens for treatment of ADD. Dr. Phillip Leveque, an invited witness who did not appear, is an Oregon physician who was suspended for issuing some four thousand medical marijuana cards, including some by fax. Two representatives of the California and Oregon state medical boards described to what extent they are able to “regulate” the use of marijuana by physicians in treatment – what standards they use, and why they are or are not an acceptable substitute for the federal regulations of drugs. Robert Kambia, Executive Director, Marijuana Policy Project, presented the views of those who favor the legalization of marijuana use.

Dr. Robert Dupont, a former head of NIDA and a prominent addiction specialist, testified to the health problems created by marijuana.

On April 20<sup>th</sup>, the Subcommittee will hold a field hearing on Precursor Meth Chemicals at the Detroit Border Crossing. Potential witnesses included: DEA, BCBP, BICE, ONDCP, S.E. Michigan HIDTA, Canadian precursor chemical companies.

On April 21, the Subcommittee will hold a hearing entitled, “Department of Defense and Counternarcotics: What is Congress getting for its money?” Secretary Rumsfeld has progressively steered his department away from counternarcotics missions, citing commitments elsewhere in the world and the desire to have DOD personnel doing inherently military missions. Yet, the DOD serves a vital role in counternarcotics missions with assets and personnel skills that are unduplicated in other departments.

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